



## THE SCHOOL DISTRICT OF LEE COUNTY

### AGREEMENT

### BETWEEN

THE SCHOOL BOARD OF LEE COUNTY, FLORIDA

### AND

CAPITOL STRATEGIES CONSULTING, INC.

This Agreement is entered into this 10th day of December, 2019, by and between the Lee County School Board, Florida ("Board"), and CAPITOL STRATEGIES CONSULTING, INC. (the "Consultant").

**WHEREAS**, the Board desires to employ the services of the Consultant; and

**WHEREAS**, the Consultant's services are considered to be in the best interest of the Board; and

**WHEREAS**, the Consultant's services are exempt from Florida Administrative Code 6A-1.012 and comply with the applicable Board guidelines and policies; and

**NOW, THEREFORE**, in consideration of the mutual terms and conditions, promises, and covenants hereinafter set forth, the Board and Consultant agree as follows:

### **SECTION 1** **RECITALS**

1.1 The above recitals are true and correct and are incorporated and made a part of this Agreement.

### **SECTION 2** **SCOPE OF SERVICES**

2.1 This Agreement is subject to, and Consultant shall provide services in accordance with the Scope of Services, terms, conditions, and requirements set forth and described in the Consultant's Proposal submitted in response thereto as accepted by the Board, attached as Exhibit "A," and any subsequently negotiated changes to same, which documents or agreements are incorporated by reference herein ("Services"). In the case of any conflict between this Agreement, the Proposal, or any amendment/addendum issued, the order of precedence shall be: the last addendum issued; the Scope of Services; and then this Agreement.

2.2 Consultant represents and warrants to the Board that: (i) it possesses all qualifications, licenses and expertise required for the performance of the Services; (ii) it is not delinquent in the payment of any sums due the Board; (iii) all personnel assigned to perform the Services are and

shall be, at all times during the term hereof, fully qualified and trained to perform the tasks assigned to each.

### **SECTION 3** **COMPENSATION**

3.1 In consideration of Consultant's actions on behalf of the Board and the Services rendered hereunder, the Board shall compensate Consultant an amount not to exceed \$112,500.

3.2 The Consultant shall provide invoices on a monthly basis to the Board upon completion of a substantial amount of Services relating to the Scope of Services contained within this Agreement. Payment shall be made to the Consultant upon approval of submitted invoices to the Board. The Board shall pay all proper invoices within 30 days of receipt of the invoices. An invoice shall include receipts for expenses where applicable.

### **SECTION 4** **TERM OF AGREEMENT**

4.1 The initial term of this Agreement shall commence on the date of execution and shall be from the effective date until June 30, 2021.

4.2 This Agreement shall be subject to the annual appropriation of funding by the Board during its budget process, the failure of which, in the Board's sole discretion, may serve as a basis for termination of this Agreement pursuant to Section 8 below, or nonrenewal of this Agreement.

### **SECTION 5** **TERMINATION OF AGREEMENT**

5.1 **Termination for convenience.** The Board may terminate this Agreement for convenience by giving Consultant 30 calendar days' written notice. In the event of such termination, Consultant shall be entitled to receive compensation for any Services provided pursuant to this Agreement and to the satisfaction of the Board, up through the date of termination. Under no circumstances shall the Board make payment for Services nor shall Consultant invoice the Board for Services not yet provided.

5.2 **Termination for cause.** This Agreement may be terminated by either party upon 5 calendar days' written notice to the other should such other party fail substantially to perform in accordance with this Agreement's material terms through no fault of the party initiating the termination. In the event that Consultant abandons this Agreement or causes it to be terminated by the Board, Consultant shall indemnify the Board against losses pertaining to this termination. In the event that this Contract is terminated by the Board for cause and it is subsequently determined by a court of competent jurisdiction that such termination was without cause, such termination shall thereupon be deemed a termination for convenience under Section 5.1 of this Agreement, and the provisions of Section 5.1 shall apply.

5.3 **Survival.** The termination of this Agreement under Section 5.1 or 5.2 shall not relieve either party of any liability that accrued prior to such termination and any such accrued liability shall survive the termination of this Agreement.

## **SECTION 6**

### **INDEPENDENT CONTRACTOR**

6.1 Consultant has been procured and is being engaged to provide Services to the Board as an independent contractor, and not as an agent or employee of the Board. Accordingly, Consultant, its officers, employees, or agents, shall not attain nor be entitled to any rights or benefits of the Board, nor any rights generally afforded classified or unclassified employees of the Board. Consultant further understands that Florida Workers' Compensation benefits available to employees of the Board are not available to Consultant, its officers, employees, or agents, and agrees to provide workers' compensation insurance for any employee or agent of Consultant rendering Services to the Board under this Agreement. Services provided by Consultant shall be provided by employees of Consultant subject to supervision by Consultant, and not as officers, employees, or agents of the Board. Personnel policies, tax responsibilities, social security, health insurance, employee benefits, travel, per diem policy, and purchasing policies under the Agreement shall be the sole responsibility of Consultant. Consultant shall have no rights under the Board's worker's compensation, employment, insurance benefits or similar laws or benefits.

## **SECTION 7**

### **INDEMNIFICATION AND DUTY TO DEFEND**

7.1 To the fullest extent permitted by law, Consultant shall indemnify and hold harmless, the Board, and its employees ("Indemnitees") from and against all claims, liabilities, damages, losses, and costs including, but not limited to, reasonable costs and attorneys' fees at the pre-trial, trial, and appellate levels, arising out of, resulting from or incidental to Consultant's performance under this Agreement, or to the extent caused by negligence, recklessness, or intentional wrongful conduct of Consultant or other persons employed or utilized by Consultant in the performance of this Agreement. The remedy provided to the Indemnitees by this indemnification shall be in addition to and not in lieu of any other remedy available under the Agreement or otherwise. This indemnification obligation shall not be diminished or limited in any way to any insurance maintained pursuant to the Agreement otherwise available to Consultant. The remedy provided to the Indemnitees by this indemnification shall survive this Agreement. The provisions of this Section shall specifically survive the termination of this Agreement. The provisions of this Section are intended to require Consultant to furnish the greatest amount of indemnification allowed under Florida law. To the extent any indemnification requirement contained in this Agreement is deemed to be in violation of any law, that provision shall be deemed modified so that Consultant shall be required to furnish the greatest level of indemnification to the Indemnitees as was intended by the parties hereto.

The Consultant agrees, at its own expense, and upon written request by the Board, to defend any suit, action, or demand brought against the Board on any claim or demand arising out of, resulting from, or incidental to Consultant's performance under this Agreement.

Nothing in this Agreement shall be deemed or treated as a waiver by the Board of any immunity to which it is entitled by law, including but not limited to the Board's sovereign immunity as set forth in Section 768.28, Florida Statutes.

**SECTION 8**  
**NON-APPROPRIATION OF FUNDS**

8.1 In the event no funds or insufficient funds are appropriated and budgeted or are otherwise unavailable in any fiscal year for payments due under this Agreement, then the Board, upon written notice to Consultant of such occurrence, shall have the unqualified right to terminate this Agreement without any penalty or expense to the Board.

**SECTION 9**  
**INSURANCE**

9.1 Consultant shall furnish to the Board, 2855 Colonial Blvd., Fort Myers, FL 33966, before the commencement of Work, certificates of insurance and all required endorsements that indicate the insurance coverage has been obtained and meets the requirements set forth in the General Conditions and the following:

- a) Commercial General Liability: \$1,000,000 each occurrence, \$2,000,000 general aggregate;
- b) Professional Liability: \$1,000,000;
- c) Products and Complete Operations Aggregate: \$2,000,000;
- d) Personal Injury and Advertising Injury: \$1,000,000;
- e) Bodily Injury, \$1,000,000 each person, \$1,000,000 each occurrence;
- f) Property Damage, \$500,000 each occurrence or combined single limit of \$1,000,000 each occurrence;
- g) Automobile Liability: \$1,000,000 combined single limit per accident;
- h) Workers Compensation and Employers Liability: \$1,000,000 each accident, \$1,000,000 each employee for injury by disease, \$1,000,000 aggregate for injury by disease.

9.2 The Board shall be named as the certificate holder and an Additional Insured on all certificates. All liability insurance policies shall have endorsements adding the Lee County School Board as an Additional Insured, a waiver of subrogation in favor of the Board and a separate endorsement for automobile liability. Insurance shall be maintained continuously during the term of the Contract up to the date of Final Completion, but the Consultant's liabilities under this Agreement shall not be deemed limited in any way to the insurance coverage required.

**SECTION 10**  
**MISCELLANEOUS**

10.1 Consultant shall, without additional expense to the Board, be responsible for paying any taxes, obtaining any necessary licenses and for complying with all applicable federal, state, county, and municipal laws, ordinances and regulations in connection with the performance of the Services specified herein.

10.2 Precautions shall be exercised at all times for the protection of persons and property. Consultant and all Subcontractors shall conform to all OSHA, federal, state, county, and Board regulations while performing under the terms and conditions of this Agreement. Any fines levied by the above-mentioned authorities because of failure to comply with these requirements shall be borne solely by Consultant responsible for the same.

10.3 Consultant understands and agrees that any information, document, report or any other material whatsoever which is given to Consultant by the Board, or which is otherwise obtained or prepared by Consultant pursuant to or under the terms of this Agreement, is and shall at all times remain the property of the Board. Consultant agrees not to use any such information, document, report or material for any other purpose whatsoever without the written consent of the Board, which may be withheld or conditioned by the Board in its sole discretion.

10.4 Consultant represents and warrants to the Board that it has not employed or retained any person or company employed by the Board to solicit or secure this Agreement and that it has not offered to pay, paid, or agreed to pay any person any fee, commission, percentage, brokerage fee, or gift of any kind contingent upon or in connection with the award or making of this Agreement. For the breach or violation of this provision, the Board shall have the right, at its discretion, to terminate the Agreement without liability, to deduct from the Contract price, or otherwise recover the full amount of such fee, commission, percentage, gift, or consideration.

10.5 The Board and Consultant agree to comply with and observe all applicable laws, codes, and ordinances as they may be amended from time to time.

## **SECTION 11**

### **WARRANTIES AND GUARANTEES**

11.1 The Consultant warrants that its Services are to be performed within the limits prescribed by the Board and with the usual thoroughness and competence of the Consultant's profession.

11.2 The Consultant shall be responsible for technically deficient designs, reports or studies due to negligent acts, errors or omissions. The Consultant shall, upon the request of the Board, promptly correct or replace all deficient work due to negligent acts, errors or omissions without cost to the Board.

## **SECTION 12**

### **AUDIT AND INSPECTION RIGHTS**

12.1 The Board may, at reasonable times, and for a period of up to three years following the date of final performance of Services by Consultant under this Agreement, audit, or cause to be audited, those books and records of Consultant which are related to Consultant's performance under this Agreement. Consultant agrees to maintain all such books and records at its principal place of business for a period of three years after final payment is made under this Agreement.

12.2 The Board may, at reasonable times during the term hereof, perform such inspections as the Board deems reasonably necessary to determine whether the Services required to be provided by Consultant under this Agreement conform to the terms of this Agreement. Consultant shall

make available to the Board all reasonable assistance to facilitate the performance of inspections by the Board's representatives.

### **SECTION 13**

#### **BACKGROUND SCREENING**

13.1 If Consultant will enter school grounds while students are present, have direct contact with students, or have access to or control of school funds, Consultant shall comply with all requirements of Sections 1012.32, 1012.465, 1012.467, and 1012.468, Florida Statutes. Consultant shall certify that Consultant and all of its employees, subcontractors, and subcontractors' employees who provide services under this Agreement have completed the background screening required by the referenced statutes and meet the standards established by the statutes. This certification will be provided to the Board in advance of Consultant providing any services on campus while students are present. Consultant will bear the cost of acquiring the background screening, and any fee imposed by the Florida Department of Law Enforcement to maintain the fingerprints provided with respect to Consultant and its employees. Consultant will provide school list of its employees and subcontractors and their employees who have completed background screening as required by the referenced statutes and meet the statutory requirements. Consultant will update these lists in the event that any employee listed fails to meet the statutory standards or new employees who have completed the background screening and meet the standards are added. Consultant agrees that in the event the Consultant or any employee, subcontractor, or subcontractor employee who Consultant has certified as completing the background screening and meeting the statutory standards is subsequently arrested for any disqualifying offense, Consultant will notify the Board within 48 hours of such incident.

13.2 The parties agree that in the event that Consultant fails to perform any of the duties described in this paragraph, this will constitute a material breach of the Agreement entitled the Board to terminate immediately with no further responsibility to make payment or perform any other duties under this Agreement. Consultant agrees to indemnify and hold harmless the Board, its officers, and employees from any liability in the form of physical injury, death, or property damage resulting from Consultant's failure to comply with the requirements of this Section 13 or Sections 1012.32, 1012.465, 1012.467, and 1012.48, Florida Statutes.

### **SECTION 14**

#### **CONFIDENTIAL STUDENT RECORDS**

14.1 If Consultant will access or create student education records while providing the Services, Consultant agrees to:

14.2 Use the information identifiable to the student only to meet the purpose of purposes of the Services.

14.3 Conduct the Services in a manner that does not permit personal identification of parents and students by anyone other than agents or employees of Consultant with legitimate interest in completion of the Services.

14.4 Protect the confidentiality of such student information by allowing access only to its agents and employees who require access to perform the Services pursuant to this Agreement.

14.5 Destroy or return to the Board all personal identifiable student information when the information is no longer needed for the purposes for which the services are performed. In any case, such personal identifiable information shall be returned or destroyed by

## **SECTION 15**

### **SCRUTINIZED COMPANIES**

15.1 Consultant certifies that it and its subcontractors are not on the Scrutinized Companies that Boycott Israel List. Pursuant to Section 287.135, F.S., the Board may immediately terminate this Agreement at its sole option if the Consultant or its subcontractors are found to have submitted a false certification; or if the Consultant, or its subcontractors are placed on the Scrutinized Companies that Boycott Israel List or is engaged in the boycott of Israel during the term of the Agreement.

15.2 If this Agreement is for more than one million dollars, the Consultant certifies that it and its subcontractors are also not on the Scrutinized Companies with Activities in Sudan, Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged with business operations in Cuba or Syria as identified in Section 287.135, F.S. Pursuant to Section 287.135, F.S., the Board may immediately terminate this Agreement at its sole option if the Consultant, its affiliates, or its subcontractors are found to have submitted a false certification; or if the Consultant, its affiliates, or its subcontractors are placed on the Scrutinized Companies with Activities in Sudan List, or Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged with business operations in Cuba or Syria during the term of the Agreement.

15.3 The Consultant agrees to observe the above requirements for applicable subcontracts entered into for the performance of work under this Agreement.

15.4 As provided in Subsection 287.135(8), F.S., if federal law ceases to authorize the above-stated contracting prohibitions then they shall become inoperative.

## **SECTION 16**

### **AGREEMENT, AMENDMENTS, AND ASSIGNMENT**

16.1. This Agreement constitutes the entire agreement between Consultant and the Board, and all negotiations and oral understandings between the parties are merged herein. The terms and conditions set forth in this Agreement supersede any and all previous agreements, promises, negotiations, or representations. Any other agreements, promises, negotiations, or representations not expressly set forth or incorporated into this Agreement are of no force and effect.

16.2 No modification, amendment or alteration of the terms and conditions contained shall be effective unless contained in a written document executed with the same formality as this Agreement.

16.3 Consultant shall not transfer or assign the performance of Services called for in the Agreement without the prior written consent of the Board, which may be withheld or conditioned in the Board's sole discretion.



**SECTION 17**  
**GOVERNING LAW AND VENUE**

17.1 This Agreement shall be in accordance with the laws of the State of Florida. Any dispute with respect to this Agreement is subject to the laws of Florida, venue in Lee County, Florida. Each party shall be responsible for its own attorney's fees and costs incurred as a result of any action or proceeding under this Agreement.

**SECTION 18**  
**NOTICES**

18.1 Whenever either party desires to give notice to the other, it must be given by written notice, sent by certified United States mail, return receipt requested, addressed to the party for whom it is intended, at the place last specified in writing, and the place for giving of notice in compliance with the provisions of this paragraph. For the present, the parties designate the following as the respective places for giving of notice, to-wit:

**FOR CONSULTANT:**

Carole Green  
Capitol Strategies Consulting, Inc.  
PO Box 07463  
Fort Myers, FL 33919

**FOR BOARD:**

Superintendent  
School Board of Lee County  
2855 Colonial Boulevard  
Fort Myers FL, 33966

With A Copy to:

Board Attorney  
School Board of Lee County  
2855 Colonial Boulevard  
Fort Myers FL, 33966

**SECTION 19**  
**NON-DISCRIMINATION**

19.1 Consultant represents and warrants to the Board that Consultant does not and will not engage in discriminatory practices and that there shall be no discrimination in connection with Consultant's performance under this Agreement on account of race, age, religion, color, gender, sexual orientation, national origin, marital status, physical or mental disability, political affiliation or any other factor which cannot be lawfully used as a basis for delivery of Services. Consultant further covenants that no otherwise qualified individual shall, solely by reason of his/her race, age, religion, color, gender, sexual orientation, national origin, marital status, physical or mental disability, political affiliation or any other factor which cannot be lawfully used as a basis for delivery of Services, be excluded from participation in, be denied Services, or be subject to discrimination under any provision of this Agreement.



## **SECTION 20**

### **PUBLIC RECORDS**

20.1 Public Records: CONSULTANT shall comply with The Florida Public Records Act as follows:

- a) Keep and maintain public records that ordinarily and necessarily would be required by BOARD in order to perform the service.
- b) Upon request by BOARD's records custodian, provide BOARD with a copy of requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law.
- c) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of this Agreement.
- d) Upon completion of this Agreement or in the event of termination of this Agreement by either party, any and all public records relating to this Agreement in the possession of CONSULTANT shall be delivered by CONSULTANT to BOARD, at no cost to BOARD, within seven days. All records stored electronically by CONSULTANT shall be delivered to BOARD in a format that is compatible with BOARD's information technology systems. Once the public records have been delivered to BOARD upon completion or termination of this Agreement, CONSULTANT shall destroy any and all duplicate public records that are exempt or confidential and exempt from public record disclosure requirements.
- e) CONSULTANT'S failure or refusal to comply with the provisions of this Section shall result in the immediate termination of this Agreement by the BOARD.
- f) **IF CONSULTANT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO CONSULTANT'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT 239-461-8420, [PublicRecords@leeschools.net](mailto:PublicRecords@leeschools.net) OR BY MAIL: Lee County School Board – Public Information Coordinator, 2855 Colonial Blvd., Fort Myers, FL 33966.**

20.2 Ownership of Documents: Unless otherwise provided by law, any and all reports, surveys, and other data and documents provided or created in connection with this Agreement are and shall remain the property of BOARD. Any compensation due to CONSULTANT shall be withheld until all documents are received as provided herein.

## **SECTION 21**

### **ADDITIONAL TERMS AND CONDITIONS**

**FEDERAL GRANTS TERMS AND CONDITIONS.** For any agreements that involve, receive or utilize Federal Grants funding, the following terms and conditions shall be considered a part of the agreement and Consultant accepts and acknowledges that it is and will continue to be in compliance with said terms and conditions for the term of the award. If Consultant fails to comply with these terms, Consultant shall notify the District in writing within five (5) business days.

**21.1 ILLEGAL ALIEN LABOR** Consultant shall comply with all federal and state laws prohibiting the hiring and continued employment of aliens not authorized to work in the United States. Consultant must not knowingly employ unauthorized aliens, and should such violation occur shall be cause for cancellation of the contract. The Consultant and its subcontractors will utilize the E-verify system established by the U.S. Department of Homeland Security to verify the employment eligibility of its employees.

**21.2 RECOVERED MATERIALS (2 CFR §200.322) applies to all contracts greater than \$10,000.00** Consultant must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000.00 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000.00; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

**21.3 FEDERAL DRUG-FREE WORKPLACE** Consultant agrees to comply with the drug-free workplace requirements for federal contractors pursuant to 41 U.S.C.A. § 8102.

**21.4 BYRD ANTI-LOBBYING AMENDMENT (31 U.S.C. 1352) applies if contract is greater than or equal to \$100,000.00.** Consultant certifies that it has filed the required certification and that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of an agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Consultant must disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award.

**21.5 ENERGY EFFICIENCY / CONSERVATION (42 U.S.C. 6201)** Consultant agrees to comply with the mandatory standards and policies relating to energy efficiency contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. 6201).

**21.6 CLEAN AIR ACT (42 U.S.C. 7401 et seq.) and the FEDERAL WATER POLLUTION CONTROL ACT (33 U.S.C. 1251 et seq.), as amended applies to contracts and subgrants in excess of \$150,000.00.** Consultant agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Consultant shall report any and all violations to the Federal awarding agency and the Regional Office of the EPA and notify the District concurrently within 30 days of notice of the violation.

**21.7 REMEDIES FOR VIOLATION OR BREACH OF CONTRACT** Failure to provide products within the time specified in the solicitation shall result in the following: The Procurement Agent shall notify Consultant in writing within five (5) calendar days via the *Consultant Performance Form* and provide five (5) calendar days to cure. If Consultant cannot provide products, the District reserves the right to purchase products from the next lowest responsive and responsible

Consultant. The defaulting Consultant may be responsible for reimbursing the District for the price differences.

**21.8 DEBARMENT AND SUSPENSION** Consultant certifies that it complies fully with the Federal Debarment Certification regarding debarment suspension, ineligibility and voluntary exclusion. In accordance with 2 CFR part 180 that implement Executive Orders 12549 and 12689. Furthermore, Consultant certifies that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.

**21.9 EQUAL EMPLOYMENT OPPORTUNITY** During the performance of this contract, Consultant agrees as follows:

- a) Consultant will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. Consultant will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Consultant agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.
- b) Consultant will, in all solicitations or advancements for employees placed by or on behalf of Consultant state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
- c) Consultant will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with Consultant's legal duty to furnish information.
- d) Consultant will send to each labor union or representative of workers with which he has collective bargaining agreement or other contract or understanding, a Record Retention and access requirements to all records the Consultant will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or workers' representative of the Consultant's commitments under

Section 202 of Executive Order No. 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

- e) Consultant will comply with all provisions of Executive Order No. 11246 of Sept. 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- f) Consultant will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- g) In the event Consultant is noncompliant with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be cancelled, terminated, or suspended in whole or in part and Consultant may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order No. 11246 of Sept. 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order No. 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- h) Consultant will include the provisions of paragraphs (a) through (h) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or Consultant. Consultant will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the event Consultant becomes involved in, or is threatened with, litigation with a subcontractor or Consultant as a result of such direction, Consultant may request the United States to enter into such litigation to protect the interests of the United States.

**21.10 COPELAND "ANTI-KICKBACK" ACT (18 U.S.C. 874 AND 40 U.S.C. 276C)** Consultant certifies that it is, and will continue for the term of this contract, to be in compliance with the Copeland "Anti-Kickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Vendor and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each vendor or sub recipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

**21.11 DAVIS-BACON ACT, AS AMENDED (40 U.S.C. 276A TO A-7)** Consultant, certifies that it is, and will continue for the term of this contract, to be in compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, Consultant is herein required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, Consultant agrees to pay wages not

less than once a week. Consultant must provide a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. Consultant acknowledges that the decision to award this contract or subcontract is conditioned upon the acceptance of the wage determination which Consultant accepts. Consultant agrees to report all suspected or reported violations to the Federal awarding agency and to notify the District concurrently. Consultant certifies that it is, and will continue to be, for the term of this contract in full compliance with the Copeland "Anti-Kickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Vendor and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each vendor or sub recipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

#### **21.12 CONTRACT WORK HOURS AND SAFETY STANDARDS ACT (40 U.S.C. 327-333)**

Consultant certifies that it is, and will continue for the term of this contract, to be in compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each Consultant must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

**21.13 HEALTH AND SAFETY STANDARDS IN BUILDING TRADES AND CONSTRUCTION industry (40 U.S.C. 3704)** No laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous.

Except as herein expressly modified, the Agreement for web-based platforms, assessment materials, and scoring services dated CAPITOL STRATEGIES CONSULTING, LLC shall otherwise remain in full force and effect, subject to all terms and conditions therein.

### **SECTION 22** **HEADINGS, CONFLICT OF PROVISIONS,** **WAIVER OR BREACH OF PROVISIONS**

22.1 Headings are for convenience of reference only and shall not be considered in any interpretation of this Agreement. In the event of a conflict between the terms of this Agreement and any terms or conditions contained in any attached documents, the terms in this Agreement shall prevail. No waiver or breach of any provision of this Agreement shall constitute a waiver of any subsequent breach of the same or any other provision, and no waiver shall be effective unless made in writing.

**SECTION 23**  
**SEVERABILITY**

23.1 If any provision of this Agreement or the application thereof to any person or situation shall to any extent be held invalid or unenforceable, the remainder of this Agreement, and the application of such provisions to persons or situations other than those as to which it shall have been held invalid or unenforceable shall not be affected thereby, and shall continue in full force and effect and be enforced to the fullest extent permitted by law.

**SECTION 24**  
**SURVIVAL**

24.1 All representations and other relevant provisions herein shall survive and continue in full force and effect upon termination of this Agreement.

**SECTION 25**  
**ENTIRE AGREEMENT**

25.1 This Agreement represents the entire and integrated Agreement between the Board and Consultant and supersedes all prior negotiations, representations or agreements, either written or oral.

**SECTION 26**  
**JOINT PREPARATION**

26.1 Consultant and the Board acknowledge that they have sought and received whatever competent advice and counsel as was necessary for them to form a full and complete understanding of all rights and obligations herein, and that the preparation of this Agreement has been a joint effort of the parties, the language has been agreed to by parties to express their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.


**SECTION 27**  
**COUNTERPARTS**


27.1 This Agreement may be executed in counterparts, each of which shall constitute an original, but all of which, when taken together, shall constitute one and the same Agreement.

**IN WITNESS WHEREOF**, the parties hereto have made and executed this Agreement on the respective dates under each signature: Board, signing by and through its Superintendent, duly authorized to execute same by the Board, and by the Consultant, by and through its President, attested to and duly authorized to execute same.

**THE SCHOOL BOARD OF LEE COUNTY,  
FLORIDA**

**CAPITOL STRATEGIES CONSULTING, INC.**

By:   
Print Name Gregory K. Adkins, Ed.D.  
Its: Superintendent  
Date: Dec 11, 2019

By:   
Carole A (Dec 3, 2019)  
Print Name Carole Green  
Its: President  
Date: Dec 3, 2019

Approved as to Form:

By:   
L. Christopher Saunders (Dec 3, 2019)  
Board Attorney  
Weiss Serota Helfman Cole  
& Bierman, P.L.



## **EXHIBIT A**

### **DESCRIPTION OF SERVICES**

#### **The Strategic Planning Services include:**

- Assist the Client with outlining goals, priorities and a legislative agenda for all legislative sessions;
- Meet with the Client to explain the legislative priorities and other relevant legislative issues.
- Attend as many local meetings as may be necessary during formulation of the legislative priority statement and at other times during the year as required by the Client;
- Assist with questions or implementation strategies of laws passed during legislative session;
- Communicate with legislators, state agencies and the Governor's Office regarding legislation and appropriations that pass;
- Assist the Client with scheduling meetings with the legislative delegation on issues affecting the Client in preparation for legislative session;
- Work with the Client to identify and assess key procedural steps needed to accomplish the Client's goals pertaining to specific appropriations and/or policy matters;
- Recommend lobbying efforts and strategies in the upcoming legislative session to achieve agenda goals;
- Prepare Client's Annual Legislative Priorities for Board approval and distribution;
- Work with Community leaders to coordinate a regional lobbying effort to advocate for educational issues affecting the Client; and
- Continue to work on any legislative matters assigned by the Client.

#### **Lobbying and Consulting Services during the legislative session include:**

- Identify and implement strategies regarding proposed legislation during legislative session;
- Prepare timely periodic reports of state legislative initiatives;
- Assist the Client with identifying and determining the feasibility of obtaining specific appropriations for the Client's objectives;
- Assist the Client with identifying and determining the feasibility of obtaining legislation to be filed on behalf of the Client;
- Assist the Client with obtaining bill sponsors;
- Provide the Client with opportunities to interact and directly communicate with elected officials, both statewide and locally;
- Meet with the local legislative delegation prior to the legislative session to present the Client's legislative issues;
- Assist the Client in preparing Lee County legislative delegation hearings;
- Represent the Client and advocate on its' behalf at all regular and special sessions of the Florida Legislature as well as attend legislative committee meetings throughout the year;
- On behalf of the Client, appear before any legislative committees and administrative hearings to provide information regarding the effect that proposed legislation, rules or other government action will have on the Client, and advocate on behalf of the Client that a governmental action take place or be deferred;

- Appear and testify, when requested, before the Florida Cabinet on issues that concern the Client;
- Work with the Governor's Office during the bill and budget review process to advocate final passage of positive legislation or appropriations or the veto of negative legislation;
- Provide the Client with weekly written summaries of legislative action affecting the Client;
- Provide the Client with a legislative session wrap-up report and present the wrap-up report at a Board Meeting that summarizes legislative actions in relation to the Client's priorities and the effect that approved legislation will have on the Client;
- Coordinate with the Superintendent and Client attorney on matters of particular interest to the Client during and following the session; and
- Report regularly to the Superintendent or his designee by way of correspondence, informal bulletins and telephone conference briefings concerning state legislation, appointments and rules which affect the Client.

### **Other Consultant Responsibilities:**

The Consultant must submit to the Client such data, reports, records, strategy recommendations, and other documents relating to the activity as the individual members may require, however, the following shall be provided to the Client as a whole:

- A weekly legislative report, which shall be required during the legislative session analyzing session activity.
- One legislative session wrap up report, summarizing legislative activity and the effect that approved legislation will have on the Client.
- The wrap-up report shall be presented at a public meeting of the Board. Preparation and organization of an annual Legislative Delegation/School Board of Lee County round table event.
- It is the expectation of the Client that the Consultant, shall also perform additional duties. These duties shall include, but not be limited to:
  - Working on local issues.
  - Seeking grant funds and revenues for specific projects and general purpose.
  - Acting as the official representative of the Client when deemed appropriate.
  - Providing in person updates to the Client at public meetings of the Board.












# Capitol Strategies Consulting Inc. 12.10.19

Final Audit Report

2019-12-11

Created:	2019-12-03
By:	Jennifer Shaffer (JenniferJS@leeschools.net)
Status:	Signed
Transaction ID:	CBJCHBCAABAAzFcsNG1N32j1xDBYqlirIo86EJhTiW0f

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2019-12-03 - 4:15:30 PM GMT- IP address: 204.109.64.2
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2019-12-03 - 4:21:53 PM GMT
-  Email viewed by L. Christopher Saunders (csaunders@wsh-law.com)  
2019-12-03 - 4:37:59 PM GMT- IP address: 12.195.125.178
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2019-12-03 - 4:38:39 PM GMT
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2019-12-03 - 4:41:03 PM GMT- IP address: 73.23.249.145
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